

February 21, 2014

REGULAR MEETING AGENDA
ILLINOIS CIVIL SERVICE COMMISSION
February 21, 2014

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:00 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD JANUARY 17, 2014

WILL THE COMMISSION APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD JANUARY 17, 2014?

IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

MEMBERS OF THE PUBLIC ARE OFFERED AN OPPORTUNITY TO ADDRESS MEMBERS OF THE COMMISSION IN ACCORDANCE WITH THE OPEN MEETINGS ACT AND RULES OF THE CIVIL SERVICE COMMISSION.

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	139.....	16
Agriculture	324.....	18
Arts Council	16.....	2
Capitol Development Board.....	46.....	0
Central Management Services.....	1,452.....	113
Children and Family Services	2,682.....	50
Civil Service Commission.....	4.....	0
Commerce & Economic Opportunity.....	367.....	66
Commerce Commission	74.....	0
Corrections.....	10,726.....	99
Criminal Justice Authority	55.....	5
Deaf and Hard of Hearing Comm.....	7.....	1
Developmental Disabilities Council.....	8.....	1
Emergency Management Agency.....	84.....	5
Employment Security.....	1,371.....	30
Environmental Protection Agency.....	785.....	17
Financial & Professional Regulation.....	409.....	45
Gaming Board	148.....	6
Guardianship and Advocacy	102.....	7
Healthcare and Family Services	2,022.....	25
Historic Preservation Agency.....	154.....	15
Human Rights Commission.....	13.....	2
Human Rights Department.....	138.....	9
Human Services	11,092.....	76
Illinois Torture Inquiry Relief Commission	5.....	1
Insurance	217.....	16
Investment Board	3.....	2
Juvenile Justice.....	971.....	21
Labor	82.....	11
Labor Relations Board Educational.....	9.....	2
Labor Relations Board State.....	17.....	2
Law Enforcement Training & Standards Bd.	18.....	2
Lottery.....	144.....	6
Military Affairs	120.....	3
Natural Resources	1,075.....	30
Pollution Control Board	21.....	2
Prisoner Review Board.....	16.....	0
Property Tax Appeal Board.....	28.....	1
Public Health.....	1,060.....	41
Racing Board.....	2.....	1
Revenue.....	1,689.....	52
State Fire Marshal	133.....	12
State Police.....	1,086.....	6
State Police Merit Board	5.....	1
State Retirement Systems.....	94.....	2
Transportation	2,163.....	0
Veterans' Affairs	1,256.....	9
Workers' Compensation Commission.....	133.....	10
TOTALS	42,565.....	841

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

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C. Illinois Dept. of Agriculture – Proposed Exemption (continued from January 17, 2014 meeting)

Position Number	40070-11-12-000-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Illinois State Fair
Functional Title	Assistant Illinois State Fair Manager
Incumbent	Vacant
Supervisor	Illinois State Fair Manager who reports to the Assistant Director, who in turn reports to the Director
Location	Sangamon County

CMS Recommendation: “This position meets the reporting criteria of the Commission Rules and considering the similarities of this requested position with those of other 4d(3) exempt positions, I recommend 4d(3) exemption.”

D. Illinois Dept. of Revenue – Proposed Exemption (continued from January 17, 2014 meeting)

Position Number	40070-25-07-100-00-02
Position Title	Senior Public Service Administrator
Bureau/Division	Legal Services Office/Administrative Office
Functional Title	Assistant General Counsel
Incumbent	Vacant
Supervisor	General Counsel, who reports to the Director
Location	Sangamon County

CMS Recommendation: “This position does meet the reporting criteria of the Commission Rules and considering the similarities of this requested position with those of other 4d(3) exempt positions, I recommend 4d(3) exemption.”

E. Illinois Department of Agriculture – Proposed Exemption

Position Number	40070-11-06-000-00-01
Position Title	Senior Public Service Administrator
Bureau/Division	Executive Office
Functional Title	Du Quoin State Fair Manager
Incumbent	Vacant
Supervisor	Chief of Staff who reports to the Director
Location	Perry County

CMS Recommendation: “This position does meet the reporting criteria of the Commission Rules and considering the similarities of this requested position with those of other 4d(3) exempt positions, I recommend 4d(3) exemption.”

F. Illinois Dept. of Commerce & Economic Opportunity – Proposed Exemption

Position Number	37015-42-00-210-00-01 (previously rescinded 8/21/09)
Position Title	Public Service Administrator
Bureau/Division	Legislative
Functional Title	Manager of Legislative Information
Incumbent	Vacant
Supervisor	Manager of the Legislative Affairs Office who reports to the Director
Location	Cook County

CMS Recommendation: “This position does meet the reporting criteria of the Commission Rules and considering the similarities of this requested position with those of other 4d(3) exempt positions, I recommend 4d(3) exemption.”

G. Illinois Department of Insurance – Proposed Exemption

Position Number	40070-14-40-000-00-01 (exemption expires 3/21/14)
Position Title	Senior Public Service Administrator
Bureau/Division	Health Information Technology Exchange
Functional Title	Health Information Technology Exchange Program Director
Incumbent	Elizabet Diaz-Castillo
Supervisor	Director
Location	Cook County

CMS Recommendation: “This position continues to meet the responsibility and reporting criteria of the Commission Rules and I recommend continuance of their 4d(3) exemption.”

WILL THE COMMISSION GRANT THE REQUEST FOR EXEMPTION FROM JURISDICTION B OF THE PERSONNEL CODE FOR THE FOLLOWING POSITIONS?

- C: Assistant Illinois State Fair Manager, Agriculture**
- D: Assistant General Counsel, Revenue**
- E: Du Quoin State Fair Manager, Agriculture**
- F: Manager of Legislative Information, Commerce & Economic Opp.**
- G: Health Information Technology Exchange Program Director, Insurance**

H. Proposed Rescissions in accordance with Section 1.142(b) of the Rules of the Civil Service Commission

On October 15, 2013 the Executive Director sent notice to the Director of Central Management Services of the proposed rescissions of 168 current 4d(3) exempt positions which may no longer meet the requirements for exemption. Each affected agency director was also provided with a courtesy notice of this proposed action. The

following is a list of the positions that were continued from the November 15, 2013 meeting and will now be put forth again before the Commission for formal consideration of rescission of their exemption. Section 1.142(b) also provides that withdrawal of exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status positions which will ensure responsive and accountable administrative control of the programs of the agency.

Item	Position Number	Agency	Functional Title
H1	40070-42-00-740-00-01	CEO	High Performance Work Place
H2	40070-20-06-201-00-11	DPH	Regional Health Officer - Rockford

WILL THE COMMISSION RESCIND THE EXEMPTION FROM JURISDICTION B OF THE PERSONNEL CODE FOR THE FOLLOWING POSITIONS?

- H1: High Performance Work Place (CEO)**
- H2: Regional Health Officer – Rockford (DPH)**

VI. CLASS SPECIFICATIONS

- None submitted.

WILL THE COMMISSION DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION STAFF NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY?

VII. MOTION TO CLOSE A PORTION OF THE MEETING

PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT, WILL THE COMMISSION CLOSE A PORTION OF THE MEETING TO CONSIDER APPEALS FILED WITH THE COMMISSION, LITIGATION, AND/OR SPECIFIED EMPLOYMENT MATTERS?

VIII. RECONVENE THE REGULAR OPEN MEETING

IX. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code; however, they do present a possible evasion of merit principles and should be monitored. The statistics below are from the Department of Central Management Services' Consecutive Non-Merit Appointment Reports.

Agency	12/31/13	1/31/14	1/31/13
Children and Family Services	0	0	3
Employment Security	0	0	1
Healthcare and Family Services	0	0	2
Human Services	0	0	1
Insurance	0	0	1
Natural Resources	0	0	4
Revenue	0	0	5
State Police Merit Board	0	0	1
Transportation	0	0	4
Veterans' Affairs	0	0	2
Totals	0	0	24

X. REMANDED APPEAL OF MARIAH WELCH^A

DA-20-11

Employee	Mariah Welch	Appeal Date	09/14/10
Agency	Corrections	Decision Date	05/20/11
Type	Discharge	ALJ	Andrew Barris
Circuit Court Decision on Remand of 1/10/14			60-day suspension in lieu of discharge.

^A The Administrative Law Judge's Proposal for Decision dated May 6, 2011 recommended a 60-day suspension in lieu of discharge. On May 11, 2011 the Commission's final decision was a 14-day suspension in lieu of discharge. On Administrative Review (11-MR-307 and 4-12-0114), the Appellate Court affirmed the Circuit Court's judgment affirming the Commission's decision that it had jurisdiction but reversed the Commission's decision to decrease Welch's suspension. The case was remanded to the Circuit Court with directions to remand to the Commission, directing it to reinstate the 60-day suspension proposed by the Administrative Law Judge. The Circuit Court's order of remand was received by the Commission on January 17, 2014.

WILL THE COMMISSION AFFIRM AND ADOPT THE DECISION IMPOSING A 60-DAY SUSPENSION IN LIEU OF DISCHARGE IN THE ABOVE MATTER?

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

S-48-12

Employee	Frank J. Roman III	Appeal Date	03/15/12
Agency	State Police	Decision Date	02/07/14
Appeal Type	Suspension	Proposal for	Suspension upheld.
ALJ	Daniel Stralka	Decision	

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

LA-7-12^B

Employee	Katherine Levin	Appeal Date	08/10/11
Agency	Educational Labor Relations Board	Decision Date	01/15/14
Appeal Type	Layoff	Proposal for	No violation.
ALJ	Andrew Barris	Decision	

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

LA-41-13

Employee	Robert R. Gesualdo	Appeal Date	04/18/13
Agency	Employment Security	Decision Date	01/22/14
Appeal Type	Layoff	Proposal for	No violation.
ALJ	Andrew Barris	Decision	

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

RV-13-13

Employee	Katherine Levin	Appeal Date	09/27/12
Agency	Educational Labor Relations Board	Decision Date	01/15/14
Appeal Type	Rule Violation	Proposal for	Violation of Section 302.570 (b) of the Personnel Rules.
ALJ	Andrew Barris	Decision	

^B LA-7-12 and RV-13-13 were consolidated pursuant to Section 1.212 of the Rules of the Civil Service Commission.

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

RV-32-13

Employee	Pamela Benson	Appeal Date	02/22/13
Agency	Corrections	Decision Date	01/23/14
Appeal Type	Rule Violation	Proposal for Decision	No Violation.
ALJ	Andrew Barris		

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

XII. APPEALS DISMISSED WITH NO DECISION ON THE MERITS

DA-16-14

Employee	Andrew R. Garrett	Appeal Date	12/27/13
Agency	Revenue	Decision Date	01/21/14
Appeal Type	Discharge	Proposal for Decision	Dismissed subject to approval of Commission; charges voluntarily withdrawn.
ALJ	Andrew Barris		

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

DA-20-14

Employee	Scott S. Conder	Appeal Date	01/10/14
Agency	Corrections	Decision Date	02/03/14
Appeal Type	Discharge	Proposal for Decision	Dismissed subject to approval of Commission; withdrawn.
ALJ	Andrew Barris		

DOES THE COMMISSION AFFIRM AND ADOPT THE PROPOSAL FOR DECISION IN THE ABOVE MATTER?

XIII. AMENDMENT TO THE PERSONNEL RULES

Section 302.795 Administrative Leave

- a) With the approval of the Director of Central Management Services (“CMS”), an agency head may relieve an employee from normal duty when extraordinary circumstances and the best interest of the agency and the State of Illinois will be served in doing so.

- 1) For purposes of this Section, normal duty is defined as those regularly-assigned duties for which the employee is responsible on the date the employee is placed on administrative leave.
 - 2) The employing agency shall determine, as soon as is practicable under the circumstances, whether alternative duties exist, consistent with all applicable laws, rules, and collective bargaining agreements, that may be performed by the employee in lieu of administrative leave. Whether placed on administrative leave or temporarily reassigned to such alternative duties, an employee must follow all directives of the employing agency, including those regarding contact with individuals and materials involved in the matter resulting in the employee being placed on administrative leave or temporarily reassigned.
 - 3) While on administrative leave, an employee remains in pay status and must be available to the employing agency upon request. Except as otherwise required by law, an employee on administrative leave who for any reason needs or desires to be unavailable must request and utilize applicable accrued benefit time. The employing agency may require that an employee whose regularly scheduled work hours are not consistent with the agency's normal business hours be available during those normal business hours.
 - 4) Secondary employment is generally discouraged while an employee is on administrative leave. An employee on administrative leave is prohibited from engaging in secondary employment during the employee's normally scheduled work hours. In addition to the conditions contained in this Section, any secondary employment request is subject to review and approval under an employing agency's policies, procedures, and forms for secondary employment.
- b) Circumstances warranting this leave must be of an extraordinary nature and are limited to those situations where no alternative means, such as suspension or temporary reassignment of an employee, will adequately protect the best interest of the agency and the State of Illinois.
- c) Duration of an administrative leave shall be no longer than necessary to protect the best interest of the agency and the State of Illinois. The leave shall initially be for no longer than 60 calendar days, but may be extended for additional periods of time, not to exceed 60 days each, for only as long as is necessary to protect the best interest of the agency and the State of Illinois.

Where a matter is referred to an investigative body, whether inside or outside the employing agency, including, but not limited to, an Inspector General or the Illinois State Police, the employing agency shall contact the investigating authority as soon as is practicable after placing an employee on administrative leave. The employing agency shall determine, including through discussion with

the investigating authority, whether the employing agency should proceed to address the underlying matter independent of the investigating authority. At a minimum, the employing agency shall contact any investigating authority prior to each extension of administrative leave to determine whether continued use of administrative leave is warranted in light of such investigation and such contact shall be reported to CMS. Prior to seeking an extension of administrative leave, the employing agency shall reassess whether the employing agency should proceed to address the underlying matter independent of the investigating authority.

- d) Administrative leave shall not be used as an alternative to Suspension Pending Decision on Discharge or Suspension Pending Judicial Verdict pursuant to Section 302.710 and Section 302.785 ~~of this Part~~.
- e) Administrative leave shall not be allowed in lieu of vacation, sick leave, personal business leave or any other type of paid or unpaid leave when the other leave is appropriate, nor shall administrative leave be used to circumvent rules governing limits on other leaves available to an employee.
- f) The employing agency will immediately provide the affected employee written notice of the administrative leave, and the agency ~~shall~~will also ~~immediately~~ report any administrative leave to CMS the Department of Central Management Services as soon as is practicable, but no longer than 5 business days after the affected employee is placed on administrative leave.
- g) In addition to placing the affected employee on administrative leave, the employing agency shall separately report to the Director of CMS in detail its justification for placing the employee on administrative leave and why temporary reassignment to alternative duties, a suspension or other means of protecting the best interest of the agency and the State of Illinois are not available. This report shall be filed as soon as practicable, but no longer than 10 business days after the affected employee is placed on administrative leave. This report of justification shall be considered confidential pursuant to 80 Ill. Adm. Code 304.40.
- h) Failure by an employee to comply with this Section or the directions provided by the employing agency with respect to administrative leave may result in discipline, up to and including discharge.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

XIV. STAFF REPORT

February 21, 2014

XV. ANNOUNCEMENT OF NEXT REGULAR OPEN MEETING

The next regular open meeting is to be held on Friday, March 21, 2014 at 11:00 a.m. in the Commission's Chicago office.

XVI. MOTION TO ADJOURN